

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HAROLD WARRINGTON,	§
	§ No. 50, 2023
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 2204004039 (S)
STATE OF DELAWARE,	§
	§
Appellee.	§

Submitted: July 3, 2023
Decided: July 27, 2023

Before **VALIHURA, TRAYNOR**, and **LEGROW**, Justices.

ORDER

Upon consideration of the appellant’s Supreme Court Rule 26(c) brief, the State’s response, and the record below, it appears to the Court that:

(1) In May 2022, the appellant, Harold Warrington, was charged by information with multiple driving offenses, including seventh offense driving under the influence (“DUI”). On November 9, 2022, Warrington pleaded guilty to seventh offense DUI in exchange for the State entering a *nolle prosequi* on the remaining charges. The State also agreed to recommend fifteen years of Level V incarceration, suspended after thirty months under 21 *Del. C.* § 4177(d)(8) and (d)(9). The parties requested immediate sentencing, but the Superior Court ordered a presentence investigation.

(2) After completion of the presentence investigation, the Superior Court sentenced Warrington to fifteen years of Level V incarceration, with credit for 281 days previously served, suspended after five years for decreasing levels of supervision. The court also ordered Warrington to complete a treatment program while serving his Level V sentence. This appeal followed.

(3) On appeal, Warrington's counsel ("Counsel") filed a brief and a motion to withdraw under Supreme Court Rule 26(c). Counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. Counsel informed Warrington of the provisions of Rule 26(c) and provided Warrington with a copy of the motion to withdraw and the accompanying brief. Counsel also informed Warrington of his right to identify any points he wished this Court to consider on appeal. Warrington has not submitted any points for the Court's consideration. The State has responded to the Rule 26(c) brief and argues that the Superior Court's judgment should be affirmed.

(4) When reviewing a motion to withdraw and an accompanying brief, this Court must: (i) be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (ii) conduct its own review of the record and determine whether the appeal is

so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.¹

(5) The Court has reviewed the record carefully and concluded that Warrington's appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Counsel made a conscientious effort to examine the record and the law and properly determined that Warrington could not raise a meritorious claim on appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Gary F. Traynor
Justice

¹ *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *Leacock v. State*, 690 A.2d 926, 927-28 (Del. 1996).